

### § 3.668

### 38 CFR Ch. I (7–1–05 Edition)

course commenced if a claim is filed within 1 year from that date.

(Authority: 38 U.S.C. 5110(e))

(5) Where a child was receiving dependency and indemnity compensation in its own right prior to age 18, payments may be continued from the 18th birthday if the child was then attending an approved educational institution and evidence of such school attendance is received within 1 year from the 18th birthday. Where the child was receiving dependency and indemnity compensation in its own right prior to age 18 and was not attending an approved educational institution on the 18th birthday but commences attendance at an approved educational institution after the 18th birthday, payments may be resumed from the commencing date of the course if evidence of such school attendance is filed within 1 year from that date.

(b) *Vacation periods.* A child is considered to be in school during a vacation or other holiday period if he or she was attending an approved educational institution at the end of the preceding school term and resumes attendance, either in the same or a different approved educational institution, at the beginning of the next term. If an award has been made covering a vacation period, and the child fails to commence or resume school attendance, benefits will be terminated the date of last payment or the last day of the month preceding the date of failure to pursue the course, whichever is the earlier.

(c) *Ending dates.* Except as provided in paragraph (b) of this section, benefits may be authorized through the last day of the month in which a course was or will be completed.

(Authority: 38 U.S.C. 5112(b)(7))

(d) *Transfers to other schools.* When benefits have been authorized based upon school attendance and it is shown that during a part or all of that period the child was pursuing a different course in the same approved educational institution or a course in a different approved educational institution, payments previously made will not be disturbed.

(e) *Accrued benefits only.* When a claim for accrued benefits is filed by or

on behalf of a veteran's child over 18 but under 23 years of age, who was pursuing a course of instruction at the time of the payee's death and payment of accrued benefits only is involved, evidence of school attendance need not be confirmed by the school. When the payee's death occurred during a school vacation period, the requirements will be considered to have been met if the child was carried on the school rolls on the last day of the regular school term immediately preceding the date of the payee's death.

(Authority: 38 U.S.C. 5112(b)(7))

(f) *Nonduplication.* Pension, compensation or dependency and indemnity compensation may not be authorized:

(1) After a child has elected to receive educational assistance under 38 U.S.C. chapter 35 (see § 3.707 and § 21.3023 of this chapter); or

(2) Based on an educational program in a school where the child is wholly supported at the expense of the Federal Government, such as a service academy.

CROSS REFERENCE: Dependents' educational assistance. See § 3.707.

[26 FR 1601, Feb. 24, 1961, as amended at 30 FR 14983, Dec. 3, 1965; 32 FR 12114, Aug. 23, 1967; 34 FR 839, Jan. 18, 1969; 40 FR 22254, May 22, 1975; 47 FR 24552, June 7, 1982; 65 FR 12116, Mar. 8, 2000]

### § 3.668 [Reserved]

### § 3.669 Forfeiture.

(a) *General.* Upon receipt of notice from a Regional Counsel the Veterans Service Center Manager in the Manila Regional Office that a case is being formally submitted for consideration of forfeiture of a payee's rights or that the payee has been indicted for subversive activities, payments will be suspended effective date of last payment.

(b) *Fraud or treasonable act—(1) Fraud.* If forfeiture of rights is not declared, payments shall be resumed from date of last payment, if otherwise in order. If it is determined that rights have been forfeited, benefits shall be discontinued effective the commencing date of the award or the day preceding the